

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-789

December 28, 1999

FORT KENT UTILITY DISTRICT
Request for Approval of the Transfer of
Assets to the Town of Fort Kent

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

Summary of Order

We approve the transfer of the assets and obligations of the Fort Kent Utility District (District) to the Town of Fort Kent (Town) as described herein.

Procedural History

On November 9, 1999, the Fort Kent Utility District filed with the Commission its Request for Approval of the Transfer of its assets to the Town of Fort Kent. In 1999, the Maine Legislature passed a bill entitled "An Act to Allow the Fort Kent Utility District to be Dissolved and Combined with the Town of Fort Kent" ("the Act"). P & S.L., ch. 24.

Pursuant to the Act, the Town of Fort Kent is authorized to acquire all of the plant, properties, assets, franchises, rights, and privileges owned by the Fort Kent Utility District. The consideration for the transaction is the assumption by the Town of all of the outstanding debts, obligations, and liabilities of the District, including, without limitation, the assumption by the Town of any outstanding notes or bonds of the District that are due on or after the date of transfer. Act, § 1.

The Act also requires the Utility District to sell all of its properties to the Town (§ 2). The sale and transfer by the Utility District to the Town is subject to Commission approval as may be required by Title 35-A, Act, § 3. The sale, disposition, or encumbrance of property that is necessary or useful in the performance of a utility's duties to the public and the authority to abandon service to the public are governed by Title 35-A § 1101-1104 and require Commission approval.

The Act, § 5, permits the District to terminate its corporate existence after:

- 1) The District's debts, obligations and other liabilities have been paid in full or assumed by the Town with the assent of the holders/owners;
- 2) The District's properties have been transferred to the Town; and

3) The District files a certificate with the Secretary of State stating that the transfer of its properties has been completed and all debts of the District have been paid or assumed by the Town.

The Maine Municipal Bond Bank and the State of Maine Department of Transportation have assented to the assumption of the District's debt by the Town.

As required by § 7 of the Act, the legal voters of the Town of Fort Kent accepted the provisions of the Act at a special municipal election held on September 7, 1999.

The Town will operate the former Utility District as the Town of Fort Kent, Water and Wastewater Department. Employees of the District will continue as employees of the Town. The Town represents that initially, there will be no change in the level or quality of service provided, the number of people served, or the rates being charged. A future rate increase will be needed for the Water Division, which is required to make improvements to comply with the Safe Drinking Water Act.

The Commission will approve the sale and transfer by the District of all of its plants, properties, assets, franchises, rights, and privileges to the Town in consideration of the assumption by the Town of all of the outstanding debts, obligations, and liabilities of the District, including, without limitation, the assumption of any outstanding notes or bonds of the District that are due on or after the date of the transfer. The Commission also authorizes the Town to perform the public service functions in the Town of Fort Kent, now being performed by the District, at rates now being charged to customers of the District.

Nothing in this Order shall limit or restrict the powers of the Commission in determining and fixing any rate, fare, toll, or charge of the District.

Accordingly, we

O R D E R

1. That the Fort Kent Utility District is authorized to sell, transfer, and convey to the Town of Fort Kent by an appropriate instrument or instruments of conveyance all, and not less than all, of its plants, properties, assets, franchises, rights, and privileges, including, without limitations, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment, and appliances used or useful in supplying water for domestic, commercial, industrial, and municipal purposes; and all sewers, reservoirs, flush tanks, manholes, catch basins, filtration plants, pumping stations and other appliances and property used or usable for collecting, holding, purifying and disposing of sewage matter and waste water, in consideration of the assumption by the Town of Fort Kent of all of the outstanding debts, obligations, and liabilities of the Fort Kent Utility District including, without limitation, the assumption of any outstanding notes or bonds of the Fort Kent Utility District that are due on or after the date of the transfer;

2. That the Town of Fort Kent is authorized to purchase and acquire all of said properties and to assume all contracts (1) relating to supplying water, and (2) in effect on the date of the transfer between the Fort Kent Utility District and any person, firm, or corporation;

3. That upon the transfer of the water system assets by the Fort Kent Utility District to the Town of Fort Kent, the Fort Kent Utility District is authorized pursuant to 35-A M.R.S.A. § 1104 to discontinue the service that it is providing to the public in the Town of Fort Kent, Aroostook County, Maine;

4. That upon the transfer of the water system assets to the Town of Fort Kent, it shall assume and be responsible for providing water service to the public in the Town of Fort Kent, Aroostook County, Maine;

5. That until further order of this Commission, the Town of Fort Kent Water and Wastewater Department shall provide water service in the area now being served by the Fort Kent Utility District pursuant to and in accordance with the filed tariffs, including terms and conditions of the Fort Kent Utility District; provided, however, that the Town of Fort Kent Water and Wastewater Department, Water Division, shall, upon transfer of the water system assets to it, file said tariffs, including terms and conditions, with the Commission under its own name;

6. That the Fort Kent Utility District shall submit to the Commission a copy of its final balance sheet within 60 days of the date of the sale; and

7. That the Town of Fort Kent Water and Wastewater Department shall supply the Commission the following within 60 days of the date of the purchase;

a) A copy of the entry on the books of the Fort Kent Water and Wastewater Department, Water Division, recording the acquisition; and

b) A copy of the opening balance sheet of the Fort Kent Water and Wastewater Department, Water Division, following acquisition.

Dated at Augusta, Maine, this 28th day of December, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond

COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.